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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re
PG&E CORPORATION,

and
PACIFIC GAS & ELECTRIC COMPANY,

Debtors.

Case No. 19-30088 (Jointly Administered)

Chapter 11

**RESPONSE TO DEBTORS' MOTION
PURSUANT TO 11 U.S.C. §§ 105(a) AND
363(b) AND FED. R. BANKR. P. 2002
AND 6004(h) FOR AN ORDER (A)
AUTHORIZING DEBTORS TO
ESTABLISH AND FUND PROGRAM
TO ASSIST WILDFIRE CLAIMANTS
WITH ALTERNATIVE LIVING
EXPENSES AND OTHER URGENT
NEEDS AND (B) GRANTING RELATED
RELIEF ("WILDFIRE ASSISTANCE
PROGRAM MOTION")**

Affects:

- ☐ PG&E Corporation
☐ Pacific Gas & Electric Company
☒ Both Debtors

Hearing Date and Time:

Date: May 22, 2019
Time: 9:30 a.m. (Pacific Time)
Place: Courtroom 17
450 Golden Gate Ave., 16th Floor
San Francisco, CA

1 Interested Parties David Herndon, Julia Herndon, Gabriell Herndon, Jedidiah Herndon,
2 Estefania Miranda, Steven Jones, Gabriella's Eatery, Chico Rent-a-Fence, and Ponderosa Pest &
3 Weed Control respectfully submit this response to the Motion Pursuant to 11 U.S.C. §§ 105(a) and
4 363(b) and Fed. R. Bankr. P. 2002 and 6004(b) For an Order (A) Authorizing Debtors to Establish
5 and Fund Program to Assist Wildfire Claimants With Alternative Living Expenses and Other Urgent
6 Needs and (B) Granting Related Relief (the "Motion," ECF No. 1777) brought by PG&E
7 Corporation and Pacific Gas & Electric Company (collectively the "Debtors"), and in support
8 thereof, represent as follows:

9 The Interested Parties are not opposed to the Motion generally,¹ and applaud the Debtors for
10 seeking to assist those most in need of aid due to the 2017 and 2018 Wildfires.² Rather, the Interested
11 Parties object only to the extent necessary to make clear that any distributions made to Wildfire
12 Claimants for covered expenses cannot later be held back or set off from otherwise valid claims
13 except to the extent that the distributions and claims actually cover the same expenses. In other
14 words, PG&E should not be able to deduct amounts paid through the Wildfire Fund, which are
15 intended to compensate for "Alternative Living Expenses or other urgent needs" (*id.* at 4), from
16 amounts due for the reconstruction of housing or similar expenses stemming from the 2017 and
17 2018 Wildfires. Indeed, allowing PG&E to offset these "urgent needs" funds from other types of
18 liabilities could have the perverse effect of limiting the total recovery available to the Wildfire
19 Claimants, as the Debtors expect that the Emergency Fund might in some aspects be duplicative of
20 funds otherwise available to claimants through the Federal Emergency Management Agency. *See*
21 *id.* at 5.

23 ¹ While Debtors insist that they are not admitting liability by seeking the Emergency Fund, the Motion appears, at
24 least tacitly, to be an admission of such liability. Indeed, the Debtors' suggestion that they are not liable to the
25 Wildfire Claimants appears inconsistent with the business judgment standard necessary for the establishment of the
26 Emergency Fund. *See, e.g., In re W.J. Bradley Mortg. Capital, LLC*, 598 B.R. 150, 175 (Bankr. D. Del. 2019)
27 (explaining that "[c]orporate waste exists where *the consideration received* for a transfer of corporate assets is so
deficient that no reasonable person could conclude the transfer serves a corporate purpose") (emphasis added).
Notwithstanding the inconsistency, the Interested Parties believe that the relief requested is appropriate, and that
Debtors ultimately will be found liable for damages that are well in excess of the Emergency Fund.

28 ² Capitalized terms not defined herein shall having the meaning ascribed to them in the Motion and Proposed Order.

1 Accordingly, the Interested Parties propose that the below language be added to the Debtors'
2 Proposed Order (ECF No. 1777 Ex. A):

3 12. Nothing in this Order or the Motion is intended to be or shall be construed as granting
4 the Debtors the right to offset or otherwise hold back amounts distributed through the Emergency
5 Fund from amounts due and owing pursuant to claims stemming from the 2017 and 2018 Wildfires,
6 except to the extent that the amounts due and owing are compensation for the same expenses claimed
7 through the Emergency Fund.

8 For the reasons state above, the Interested Parties request that the Court grant Debtors'
9 Motion subject to the addition of the above text to the Proposed Order or to entry of an Order
10 addressing the points raised by the Interested Parties herein.

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12 [Signatures to Follow]
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1 Dated: May 15, 2019
2 Los Angeles, CA

/s/ Thomas D. Warren

Thomas D. Warren

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